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IN THE CHANCERY COURT OF THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

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STATE OF TENNESSEE, ex rel.,)
PAULA A. FLOWERS,)
Commissioner of Commerce and)
Insurance for the State of Tennessee,) No. 03-294-1
Petitioner,)
v.)
DOCTORS INSURANCE RECIPROCAL)
(Risk Retention Group), a Tennessee)
domiciled insurance company,)
Respondent.)

**MOTION TO CONVERT REHABILITATION TO LIQUIDATION AND VERIFIED
PETITION FOR FINAL ORDER OF LIQUIDATION, DECLARATION OF
INSOLVENCY AND PERMANENT INJUNCTION**

Paula A. Flowers, Commissioner of Commerce and Insurance of the State of Tennessee ("Commissioner"), in her official capacity in this action, and acting as Rehabilitator for Doctors Insurance Reciprocal (Risk Retention Group), a Tennessee domiciled insurer ("DIR", "Respondent" or "insurer"), upon having determined that the condition of DIR's finances remains hazardous, that DIR is insolvent, and that continuation of attempts to rehabilitate DIR would substantially increase the risk of loss to creditors, policyholders and the public, and would be futile, hereby moves by verified petition pursuant to Tenn. Code Ann. § 56-9-305, § 56-9-306 and § 56-9-307(d) for a declaration of insolvency, to convert this rehabilitation receivership into a liquidation, and for entry of a Final Order of Liquidation.

Petition for Liquidation of Doctors Insurance Reciprocal (Risk Retention Group)

INTRODUCTION

1. Petitioner Paula A. Flowers is the duly appointed Commissioner of Commerce and Insurance for the State of Tennessee and the statutory rehabilitator of DIR. Pursuant to the Tennessee Insurers Rehabilitation and Liquidation Act (hereinafter "the Act"), Tenn. Code Ann. §§ 56-9-101, *et seq.*, the liquidation of a domestic insurer such as ANLIR is to be conducted by the Commissioner and her successors in office after her appointment as liquidator by the Court. Tenn. Code Ann. §§ 56-9-305, 56-9-306, *et seq.*

2. The Commissioner requests entry of a Final Order of Liquidation, the terms of which are set forth in the prayer hereto. The requested Order would contain terms applicable to final orders of liquidation under the Act, and appoint the Commissioner and her successors in office as statutory liquidator of DIR. Further, the requested Order would establish notice procedures and a claims bar date, and replace the temporary injunction with a permanent injunction authorized by Tenn. Code Ann. § 56-9-105. A permanent injunction and other provisions of the Act will prevent interference with the conduct of the duties of the receiver and aid in achieving an orderly and conclusive liquidation of DIR.

3. This action continues properly before the Chancery Court of Davidson County, with jurisdiction and venue established by Tenn. Code Ann. §§ 56-9-104, 56-9-305 and -306.

4. This petition is brought under Tenn. Code Ann. § 56-9-305(a), which establishes the requirements and means for converting a rehabilitative receivership, which was initially established for DIR by this Court on January 31, 2003, into liquidation of an insurer:

Whenever the commissioner believes further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors, policyholders or the public, or would be futile, the commissioner may petition the chancery court of Davidson County for an order of liquidation. A petition under this subsection has the same effect as a petition under § 56-9-306. The chancery court of Davidson County shall permit the directors of the insurer to take such actions as are reasonably necessary to defend against the petition and may order payment from the estate of the insurer of such costs and other expenses of defense as justice may require.

Tenn. Code Ann. § 56-9-305(a).

5. This petition is also brought pursuant to Tenn. Code Ann. § 56-9-306, which provides that the Commissioner may request liquidation, regardless of whether there has been any prior order directing rehabilitation of the insurer, as follows:

The commissioner may petition the chancery court of Davidson County for an order directing the commissioner to liquidate a domestic insurer or an alien insurer domiciled in this state on the basis:

(1) Of **any ground for an order of rehabilitation** as specified in § 56-9-301, whether or not there has been a prior order directing the rehabilitation of the insurer;

(2) **That the insurer is insolvent; or**

(3) That the insurer is in **such condition that the further transaction of business would be hazardous**, financially or otherwise, to its policyholders, its creditors or the public.

Tenn. Code Ann. § 56-9-306 (emphasis added).

6. Among other grounds for liquidation pursuant to Tenn. Code Ann. § 56-9-306(1), Tenn. Code Ann. § 56-9-301 provides that the Commissioner may apply to rehabilitate (and, by virtue of Tenn. Code Ann. § 56-9-306, to liquidate) an insurer if, among other reasons, “[t]he

insurer is in such condition that the further transaction of business would be hazardous financially to its policyholders, creditors or the public.” Tenn. Code Ann. § 56-9-301(1).

7. For purposes of Tenn. Code Ann. § 56-9-306(2), an insurer is considered insolvent if:

(B) . . . it is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities, plus the greater of:

(i) Any capital and surplus required by law for its organization; or
(ii) The total par or stated value of its authorized and issued capital stock;

...
(D) “liabilities” include, but are not limited to, reserves required by statute or by department general regulations or specific requirements imposed by the commissioner

Tenn. Code Ann. § 56-9-103(11).

8. This petition is further authorized by paragraph 14 of the Consent Order Appointing the Commissioner as Receiver for Purposes of Rehabilitation.

9. The Commissioner further requests a declaration by this Court that DIR is insolvent. Such a declaration is authorized by Tenn. Code Ann. § 56-9-307(d), which states:

At the time of petitioning for an order of liquidation, or at any time thereafter, the commissioner, after making appropriate findings of an insurer’s insolvency, may petition the court for a judicial declaration of such insolvency. After providing such notice and hearing as it deems proper, the court may make the declaration.

A declaration of insolvency may secure important recovery rights to the receiver and the estate of DIR, such as recovery of earned premium under Tenn. Code Ann. § 56-9-321.

GROUND FOR LIQUIDATION OF DIR

10. The Commissioner has reasonably determined, based on the circumstances present here, that an order of liquidation of DIR is necessary.

11. Before the Order of Rehabilitation was entered in this case, DIR's obligations to its policyholders were substantially reinsured¹ through Reciprocal of America ("ROA"), an insurance company domiciled in the Commonwealth of Virginia that the Virginia Insurance Commissioner placed into receivership on January 29, 2003. As a result of the Virginia Commissioner's action, DIR was placed in a hazardous position and Commissioner Flowers therefore sought to put DIR into receivership. The Commissioner has acted as Rehabilitator for DIR since January 31, 2003, and has appointed John Knox Walkup as her Special Deputy Receiver for DIR.

12. ROA has not been rehabilitated. On April 30, 2003, the Deputy Receiver for ROA petitioned the Virginia State Corporation Commission to place ROA into liquidation. In his petition, the Deputy Receiver for ROA referred to ROA's "deep insolvency."

13. According to recent financial statements as of December 31, 2002, filed by ROA with Virginia and sent to the DIR Special Deputy Receiver, and referred to by the Deputy Receiver for ROA in ROA's petition for liquidation, ROA was insolvent by over \$200 million as of that date. ROA reported in its December 31, 2002, Annual Statement a negative surplus as regards policyholders of \$209,593,228. Because of this purported deep insolvency and the status of ROA's receivership, DIR is unlikely to recover any payments from ROA in the immediate future. Furthermore, any ultimate recoveries could be substantially reduced or entirely

¹ The nature of this obligation and the rights of DIR and its insureds as beneficiaries under certain "pass-through" reinsurance contracts to which ROA is a party are the subject of litigation in the Virginia State Corporation Commission.

uncollectible. The Commissioner notes these possible outcomes without prejudice to DIR's current or future claims, positions or rights in the ROA receivership proceedings or elsewhere.

14. The Special Deputy Receiver for DIR has located and secured approximately \$7 million in liquid assets belonging to DIR, consisting of bank accounts and investment accounts. Exhibit A, Walkup Affidavit, ¶8. The DIR receivership has over 1000 different claims and/or actions pending against DIR insureds in numerous States and which are in varying procedural stages. DIR is unable to pay its policy obligations as they become due, including obligations to fully satisfy all coverage obligations to DIR insureds. Walkup Affidavit ¶8.

15. According to Tennessee Department of Commerce and Insurance records, DIR filed its last financial statement with assets and liabilities stated as of the quarter ending September 30, 2002. No further certified statements have been filed. Department financial analysts have reviewed that quarterly statement in light of the reported insolvency of ROA as of December 31, 2002, and have roughly estimated the impact of ROA's insolvency on its reported obligations to DIR. Due to the current unavailability of ROA reinsurance or direct payments, estimated adjustments to DIR's September 30, 2002, financial statements have been made. These departmental adjustments cause DIR to have an estimated negative policyholders surplus of \$71,230,918. See Exhibit B, "Summary of Estimated Impact of ROA Insolvency on ANLIR, DIR and TRA as of December 31, 2002." This estimate shows a deep insolvency for DIR. Furthermore, DIR is required by statute, Tenn. Code Ann. §§ 56-2-114 and 56-2-115, to have a positive capital and surplus (i.e. net worth) of at least \$2,000,000.

16. The current estimated financial status of DIR is stated in Exhibit B, including the following components. DIR has approximate adjusted net admitted liquid assets of \$20,086,890 (column 7), which is less than its adjusted direct known policy liabilities of \$91,317,808 (last calculated as of September 30, 2002) (column 8), creating an estimated deficiency of at least \$71,230,918 (column 9), without regard to unknown liabilities. Without the ability to count on receiving payments from ROA, and with ROA's cessation of business, DIR's outstanding liabilities exceed its assets by approximately \$71,230,918.

17. An exact determination of DIR's present financial status cannot be made at this time, due to the limited availability of DIR's books and records. Walkup Affidavit, ¶11. The calculations on Exhibit B, however, represent reasonable expectations based on the September 30, 2002, DIR financial statements.

18. The fact of DIR's insolvency is clear from this preliminary review; however, the Commissioner reserves the right to amend and restate DIR's financial condition based on more accurate information as it becomes available.

19. The Commissioner has therefore determined that DIR is insolvent, and on this basis requests both a declaration of insolvency and a Final Order of Liquidation.

20. The Commissioner and Special Deputy Receiver's efforts to rehabilitate or seek bidders for DIR have not generated viable options for the rehabilitation of DIR.

21. Before January 31, 2003, DIR, as a reciprocal, had no employees of its own; nor did DIR's attorney-in-fact, Physicians Management Corporation. Instead, all operations of DIR and the attorney-in-fact were carried out by employees of The Reciprocal Group ("TRG"), a

Virginia-based management company that was placed into receivership with ROA. DIR therefore has virtually no infrastructure with which to conduct its business. In order to continue business operations, DIR would have to hire a sufficient work force to market DIR's insurance products, administer existing and future claims made by insureds, and conduct the day-to-day business operations of the company. In addition, DIR would have to obtain sufficient office space and communication technology (including computers and telecommunication equipment) in order to function as an ongoing entity. Investments in these human and technological resources require a tremendous expenditure of capital which DIR does not have. Walkup Affidavit ¶12. The need for such new expenditures, and DIR's continued exposure on policies in force without the financial means to honor the policy obligations, mean that further attempts to rehabilitate DIR would substantially increase the risk of loss to creditors, policyholders and the public.

22. Moreover, since January 31, 2003, a number of DIR insureds have purchased insurance elsewhere and cancelled their insurance policies with DIR. Walkup Affidavit, ¶8.

23. There are no acceptable purchasers to assume DIR's business at a price sufficient to meet its existing liabilities. Walkup Affidavit, ¶9.

24. For these reasons, the Commissioner and the Special Deputy Receiver have determined that rehabilitation of DIR would be futile. The Commissioner seeks a Final Order of Liquidation on this basis also.

25. The Commissioner has determined that DIR is in such condition that further transaction of its business would be hazardous financially and otherwise to the insurer's

policyholders, creditors and the public. This determination, based on the financial condition of the company and the unsuccessful efforts to rehabilitate DIR to date, supports conversion of the rehabilitation into a liquidation under Tenn. Code Ann. § 56-9-305(a) and supports a Final Order of Liquidation under Tenn. Code Ann. § 56-9-306.

26. There is no further purpose or justification for continuing to attempt to rehabilitate DIR, and good cause exists for immediate entry of a Final Order of Liquidation, Declaration of Insolvency, and Permanent Injunction.

27. The Commissioner has already during this receivership suspended further payment of policy obligations and the acquisition of new business for DIR. This will continue due to the Commissioner's determination that liquidation is the only appropriate remedy for these circumstances.

TERMS OF REQUESTED LIQUIDATION ORDER

28. The terms requested for the Order of Liquidation are set out in the Prayer ¶1. The Order would continue the powers of the receiver established through the rehabilitation order, and also grant the liquidator all the specific and general powers of statute and law established in Tenn. Code Ann. § 56-9-307 through Tenn. Code Ann. § 56-9-337, and otherwise in the Insurers Rehabilitation and Liquidation Act and Tennessee Code for liquidators and receivers. Some of the statutory powers are repeated verbatim, while others are incorporated by reference. The enumerated powers of the liquidator by statute in any event are not construed as a limitation upon the liquidator, who has powers to act as may be necessary or appropriate for the accomplishment of or in aid of the purpose of liquidation. Tenn. Code Ann. § 56-9-310(b). The powers of a

liquidator, and the statutory process to be accomplished by the liquidator, are lengthy and detailed.

29. A liquidation order is a final order under Tenn. Code Ann. § 56-9-307(a): “The liquidator shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer ordered liquidated, wherever located, as of the entry of the final order of liquidation. . . .” Notice of the liquidation order, the claims process, and the bar date for claims will have a conclusive effect on the potential creditors. The bar date proposed by the Commissioner is **August 30, 2004, at 4:30 p.m. Central Time.**

30. The requested order would further continue and makes permanent statutory injunctions allowed by Tenn. Code Ann. § 56-9-105 and other sections of the Act that prevent interference with the Commissioner, and impose those injunctions that allow the liquidation process to be conclusive, and effectuate this Court’s powers to draw all claims and matters relating to this insurer and its assets to itself. The requested order would contain all those provisions that the Commissioner deems necessary at this time to effectuate the liquidation and to prevent actions that would harm this process. Liquidation of DIR preserves DIR’s rights and causes of action, and is sought without prejudice to the Commissioner’s seeking additional relief on behalf of DIR from the ROA and TRG receiver.

31. The requested Order would set a policy cancellation date for insurance policies of DIR, which in any event is required to be within the maximum 30 days permitted by Tenn. Code

Ann. § 56-9-308(a) of the date of entry of such Order, assuming approval. The Commissioner will request the policy cancellation date to be 30 days after the date of entry of such Order.

CONCLUSION

32. Based on the foregoing law and factual circumstances, and the supporting Exhibits, the Commissioner is of the belief and represents that there is no proper basis for continuing rehabilitation of DIR, where further efforts would be futile and produce no additional benefit to policyholders, creditors, or the public. Therefore, the Commissioner respectfully requests that this Court convert this receivership to liquidation and promptly enter a Final Order of Liquidation.

WHEREFORE, premises considered, Petitioner prays as follows:

1. That an Order Appointing the Commissioner and her successors in office as Liquidator of Respondent DIR be entered, declaring DIR to be insolvent, with substantially the following terms:

A. The receivership of Doctors Insurance Reciprocal (Risk Retention Group) (also referred to herein as "DIR" or "insurer"), created by Order entered January 31, 2003 for the purposes of rehabilitation, shall continue in full force and effect and that as of the date of entry of this Order of Liquidation, said receivership is converted to a receivership for purposes of liquidation. All powers, authority, and responsibilities of the Commissioner which are granted by the court's previous rehabilitation orders, and which are not listed, amended, or augmented in this Liquidation Order, are hereby reaffirmed and continued in Liquidation.

B. The Commissioner of Commerce and Insurance for the State of Tennessee, and her successors in office, is appointed **Liquidator of Doctors Insurance Reciprocal (Risk Retention Group)** for purposes of liquidation as provided by Tenn. Code Ann. §§ 56-9-305, 306, and 307 with all the powers conferred by law on receivers and liquidators of insurers appointed under those statutes. In addition to those powers specifically

enumerated in this Final Order of Liquidation and by operation of law under Tenn. Code Ann. §§ 56-9-101 *et seq.* for liquidators of insurers, the liquidator shall have the power to exercise all powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with Tenn. Code Ann. §§ 56-9-101, *et seq.*

C. Pursuant to Tenn. Code Ann. § 56-9-307, the Commissioner, as liquidator, is authorized and directed (1) to take and continue in possession of all accounts, assets, monies, and property (both tangible and intangible) belonging to, held by and/or in the name of DIR both within and without the State of Tennessee, (2) to continue to be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the accounts, assets, monies, books and records of the insurer, wherever located, as of the date of entry of the rehabilitation order, and any further title or rights in property gained by the Commissioner by virtue of such receivership, and (3) that the Commissioner, as liquidator, continues to have the right to recover the same and reduce the same to possession and to administer them under the general supervision of the Court.

D. Pursuant to Tenn. Code Ann. § 56-9-307, the rights and liabilities of DIR and of its creditors, policyholders, shareholders, members and all other persons interested in its estate shall become fixed as of the date of the entry of this Order of Liquidation, except as provided in Tenn. Code Ann. §§ 56-9-308 and 326.

E. **Policies Cancellation.** Pursuant to Tenn. Code Ann. § 56-9-308, all policies, including bonds and other noncancellable business, in effect at the time of issuance of this Order of Liquidation shall continue in force only for the lesser of: (1) a period of thirty (30) days after the date of entry of the Order of Liquidation; (2) the expiration of the policy coverage; (3) the date when the insured has replaced the insurance coverage with equivalent insurance in another insurer or otherwise terminated the policy; (4) the liquidator has effected a transfer of the policy obligation pursuant to Tenn. Code Ann. § 56-9-310(a)(10); (5) the date proposed by the liquidator and approved by the Court to cancel coverage. The liquidator proposes and the Court hereby approves that all outstanding policies and coverage be canceled on **[date 30 days after Court enters the Order of Liquidation]**.

F. This Order of Liquidation shall terminate coverage at the time specified in Tenn. Code Ann. § 56-9-308(a) for purposes of any other statute.

G. The liquidator shall have all the powers enumerated in Tenn. Code Ann. § 56-9-310, including the power to appoint a special deputy or deputies to act for her and to determine their reasonable compensation. One special deputy appointed by the Commissioner is John Knox Walkup. The special deputy shall have all powers of the liquidator as granted by this Order and as enumerated in Tenn. Code Ann. § 56-9-310. The special deputy shall serve at the pleasure of the liquidator.

H. The liquidator shall have the power to employ employees and agents, legal counsel, actuaries, accountants, appraisers, consultants and such other personnel as the liquidator may deem necessary to assist in the liquidation.

I. The liquidator shall have the power to fix reasonable compensation of employees and agents, legal counsel, actuaries, accountants, appraisers and consultants with the approval of the Court, and shall have power to pay reasonable compensation to persons appointed and to defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer.

J. The liquidator shall have the power to hold hearings, to subpoena witnesses to compel their attendance, to administer oaths, to examine any person under oath, and to compel any person to subscribe to his or her testimony after it has been correctly reduced to writing; and in connection therewith to require the production of any books, papers, records or other documents which she deems relevant to the inquiry.

K. The liquidator shall have the power to audit the books and records of all agents of the insurer insofar as those records relate to the business activities of the insurer.

L. The liquidator shall have the power to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon or otherwise dispose of or deal with, any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable. The liquidator shall also have power to execute, acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation.

M. The liquidator shall have the power to enter into such contracts as are necessary to carry out the Order of Liquidation, and to affirm or disavow any contracts to which the insurer is a party.

N. The liquidator shall have the power to continue to prosecute and to institute in the name of the insurer or in the liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and to abandon the prosecution of claims the liquidator deems unprofitable to pursue further.

O. The liquidator shall have the power to prosecute any action at law or in equity which may exist on the liquidator's behalf, and/or on behalf of the creditors, members, policyholders or shareholders of the insurer against any person or entity. Pursuant to Tenn. Code Ann. § 56-9-313(b)(1), the liquidator may, within two (2) years or such other longer time as applicable law may permit, institute an action or proceeding

on behalf of the estate of the insurer upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the instant petition for liquidation.

P. The liquidator shall have the power to remove any or all records and property of the insurer to the offices of the Commissioner or to such other place as may be convenient for the purposes of efficient and orderly execution of the liquidation.

Q. The liquidator shall have the power under Tenn. Code Ann. §§ 56-9-315, 316, and 317 to avoid fraudulent and preferential transfers.

R. The enumeration of the powers and authority of the liquidator shall not be construed as a limitation upon the Commissioner or Special Deputy, nor shall it exclude in any manner any right to do such other acts not herein specifically enumerated or otherwise provided for, as may be necessary or appropriate for the accomplishment of or in aid of the purpose of liquidation.

S. **Notice.** The liquidator shall give or cause to be given notice of the Order of Liquidation in accordance with Tenn. Code Ann. § 56-9-311 as soon as possible: (1) by first class mail and either by telegram or telephone to the insurance commissioner of each jurisdiction in which the insurer is doing business; (2) by first class mail to any guaranty association or foreign guaranty association which is or may become obligated as a result of liquidation; (3) by first class mail to all insurance agents of the insurer; (4) by first class mail to all persons known or reasonably expected to have claims against the insurer including all policyholders, at their last known address as indicated by the records of the insurer; and (5) by publication in a newspaper of general circulation in the county in which the insurer has its principal place of business and in such other locations as the liquidator deems appropriate.

T. **Claims Deadline** - Except as otherwise established by the liquidator with approval of the Court, notice to potential claimants under Tenn. Code Ann. § 56-9-311(a) shall specify in the notice and require claimants to file with the liquidator their claims together with proper proofs thereof under Tenn. Code Ann. § 56-9-324, on or before 4:30 p.m., Central Time, **August 30, 2004**, for purposes of participating in any distribution of assets that may be made on timely filed claims that are allowed in these proceedings.

U. With notice given in accordance with Tenn. Code Ann. § 56-9-311, the distribution of assets of the insurer under Tenn. Code Ann. §§ 56-9-101, et seq. shall be conclusive with respect to all claimants, whether or not they receive notice.

V. **Protection from Suit.** Pursuant to Tenn. Code Ann. § 56-9-313, no action at law or equity or in arbitration shall be brought against the insurer or liquidator,

whether in Tennessee or elsewhere, nor shall any such existing actions be maintained or further presented or prosecuted after issuance of the Order of Liquidation. All claims must be submitted through the claims process as set forth in the Act, and as further defined in this Order. Whenever, in the liquidator's judgment, protection of the estate of the insurer necessitates intervention in an action against the insurer that is pending outside this state, the liquidator may intervene in the action. The liquidator may defend any action in which the liquidator intervenes under this section at the expense of the estate of the insurer.

W. Injunctions. Pursuant to Tenn. Code Ann. § 56-9-105(a)(1-11), all persons, firms, corporations and associations, including but not limited to, Respondent DIR and its officers, directors, stockholders, members, subscribers, agents, contractors, subcontractors and all other persons with authority over or in charge of any segment of DIR's affairs, are prohibited and permanently enjoined from (1) the transaction of its business, (2) the waste or disposition of its property, (3) the destruction, deletion, modification, or waste of its records, databases or computer files, (4) the commencement or prosecution of any actions, or the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against the insurer or against its assets or any part thereof until further order of this Court, and (5) any other threatened or contemplated action, not permitted under the Act, that might lessen the value of the insurer's assets or prejudice the rights of policyholders, creditors or shareholders, or the administration of any proceeding under this chapter; and this Court further authorizes the liquidator to apply outside of Tennessee for the relief described in Tenn. Code Ann. § 56-9-105(a);

X. Cooperation. Pursuant to Tenn. Code Ann. § 56-9-106, the officers, managers, directors, trustees, owners, employees, agents, contractors or subcontractors of DIR, and any other persons with authority over or in charge of any segment of its affairs, are ordered and required to cooperate with the Commissioner in the carrying out of the liquidation. The term "person" shall include any person who exercises control directly or indirectly over activities of the DIR through any holding company, parent company, or other affiliate of DIR. Further, the term "person" shall include any person who exercises control or participation in the activities of the DIR, such as through the record-keeping and computer systems operation relating to the activities of the DIR. "To cooperate" shall include, but shall not be limited to, the following: (1) to reply promptly in writing to any inquiry from the Commissioner requesting such a reply; and (2) to preserve and to make available to the Commissioner any and all books, bank and investment accounts, documents, or other records or information or computer programs and databases or property of or pertaining to DIR and in his or her possession, custody or control. No person shall obstruct or interfere with the Commissioner in the conduct of this liquidation;

Y. Any bank, savings and loan association, financial institution or other person, which has on deposit, in its possession, custody or control any funds, accounts and any other assets belonging to, held by, and/or in the name of DIR, shall immediately transfer title, custody and control of all such funds, accounts, or assets to the liquidator, and are hereby instructed that the liquidator has absolute control over such funds, accounts and other assets. The liquidator may change the name of such accounts and other assets, withdraw them from such bank, savings and loan association or other financial institution, or take any lesser action necessary for the proper conduct of this receivership. No bank, savings and loan association or other financial institution shall exercise any form of set-off, alleged set-off, lien, any form of self-help whatsoever, or refuse to transfer any funds or assets to the liquidator's control without the permission of this Court.

Z. Pursuant to Tenn. Code Ann. § 56-9-307(e), the liquidator shall make financial reports to the Court, which shall be filed within one (1) year of the Order of Liquidation, and at least annually thereafter. Financial reports shall include the assets and liabilities of the insurer and all funds received or disbursed by the liquidator during the current period.

AA. Any person, firm, corporation or other entity having notice of this Order that fails to abide by its terms shall be directed to appear before this Court to show good cause, if any they may have, as to why they should not be held in contempt of Court for violation of the provisions of this Order;

BB. No bond is required of the Commissioner as a prerequisite for the filing of this petition or entry of this liquidation order or for the issuance of any injunction, restraining order, or additional order issued as provided by Tenn. Code Ann. § 20-13-101, and;

CC. That this Liquidation Order is permanent and a final order and entitled to full faith and credit pursuant to U.S. Const. Art. IV, § 1 and 28 U.S.C. § 1738 in the state and federal courts of each of the United States.

DD. That this Liquidation Order be posted on the Tennessee Department of Commerce and Insurance website.

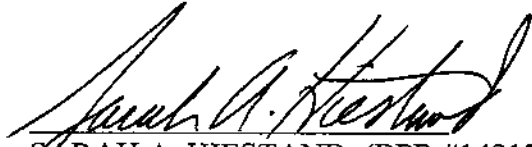
2. That DIR be afforded the opportunity to respond to this Petition in accordance with the local rules respecting motions, and that consequently the requested Order may be

entered if no response hereto is timely filed, and that an appropriate early hearing date be scheduled for this Petition;

3. That the requested Order be entered without cost bond as provided by Tenn. Code Ann. § 20-13-101;

4. That the Commissioner be permitted to apply to the Court for any further orders which may be necessary to implement the terms of the Liquidation Order, or in aid thereof, to which the Commissioner may be entitled; this Court to retain jurisdiction for the purpose of granting such further relief as from time to time shall be deemed appropriate.

Respectfully submitted.
PAUL G. SUMMERS
Attorney General



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Counsel for Commissioner and Rehabilitator Paula
A. Flowers, and Special Deputy Receiver John
Knox Walkup

NOTICE OF HEARING

**THIS MOTION IS SET TO BE HEARD ON MAY 30, 2003 AT 9:00 A.M.
IF NO RESPONSE IS TIMELY FILED AND SERVED, THE MOTION
SHALL BE GRANTED WITHOUT FURTHER HEARING.**

IN THE CHANCERY COURT OF THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel.,)	
PAULA A. FLOWERS,)	
Commissioner of Commerce and)	
Insurance for the State of Tennessee,)	No. 03-294-I
)	
Petitioner,)	
)	
v.)	
)	
DOCTORS INSURANCE RECIPROCAL)	
(Risk Retention Group), a Tennessee)	
domiciled insurance company,)	
)	
Respondent.)	

VERIFICATION

1. I, Paula A. Flowers, am the duly appointed Commissioner of Commerce and Insurance for the State of Tennessee and in such official capacity have been acting as the Rehabilitator of Doctors Insurance Reciprocal (Risk Retention Group), ("DIR").

2. I have read the foregoing Motion to Convert Rehabilitation to Liquidation; and Verified Petition for Final Order of Liquidation, Declaration of Insolvency and Permanent Injunction, and swear that the information contained therein is true and correct to the best of my knowledge, information and belief, including information from the Special Deputy Rehabilitator and the receivership staff. As stated in that Petition, I have determined that DIR remains hazardous financially to its policyholders, its creditors and the public; that DIR is insolvent; and that further attempts to rehabilitate DIR would substantially increase the risk of loss to creditors, policyholders and the public, and/or would be futile. I accordingly respectfully request that the

Petition for Liquidation of Doctors Insurance Reciprocal (Risk Retention Group)

Court enter a Final Order of Liquidation as prayed for in the foregoing Petition at the earliest opportunity based on the circumstances set forth in the foregoing Petition.

Paula A. Flowers
PAULA A. FLOWERS
Commissioner of Commerce and Insurance
for the State of Tennessee

SWORN TO AND SUBSCRIBED before me on this 16th day of May,
2003.

Menise M Lewis
NOTARY PUBLIC
My Commission Expires: My Commission Expires MAR. 27, 2004

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
20TH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel.)	
PAULA A. FLOWERS,)	
)	
Petitioner,)	
)	
v.)	No: 03-294-I
)	
DOCTORS INSURANCE RECIPROCAL)	
(Risk Retention Group),)	
)	
Respondent.)	

AFFIDAVIT OF JOHN KNOX WALKUP

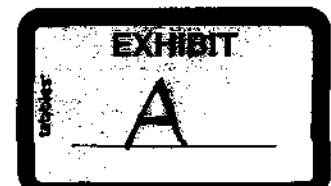
Having been duly sworn, I, John Knox Walkup, attest as follows:

1. I am of majority age and have personal knowledge of the contents of this Affidavit.

2. I am the Special Deputy Rehabilitator of Doctors Insurance Reciprocal ("DIR"), having been appointed to that position pursuant to Tenn. Code Ann. § 56-9-303(a) on January 31, 2003. I submit this Affidavit in support of the Petition for Liquidation of DIR.

3. DIR is a Tennessee-domiciled risk retention group, which provided professional malpractice coverage to over 8,000 physicians and other healthcare professionals in more than 30 States, including Tennessee.

4. As noted in the DIR Rehabilitation Order entered on January 31, 2003, DIR reinsured "substantially all" of its



insurance business with Reciprocal of America ("ROA"), a company domiciled in the Commonwealth of Virginia. The nature of ROA's relationship with DIR is currently the subject of litigation before the Virginia State Corporation Commission. Virtually all of the business affairs of DIR -- including professional claims assessment and payment -- were performed by The Reciprocal Group ("TRG"), a management company which was also based in Virginia, and TRG and/or ROA employees.

5. On January 29, 2003, the Circuit Court for the City of Richmond entered a Final Order of Rehabilitation or Liquidation ("Virginia Receivership Order"), which placed both ROA and TRG into receivership. In doing so, the Virginia Receivership Order specifically noted that ROA and TRG "operate as, and comprise, a single insurance business enterprise" and further noted that "any further transaction of business [would] be hazardous to the policyholders, creditors, members, subscribers and the public." Accordingly, the Virginia Circuit Court asserted exclusive *in rem* jurisdiction over all property and assets of ROA/TRG, and vested the Virginia State Corporation Commission and Virginia Commissioner of Insurance with exclusive legal and equitable title to all of ROA's and TRG's property.

6. Subsequent to the entry of the Virginia Receivership Order, ROA ceased meeting its reinsurance obligations to DIR. As a consequence, DIR's financial condition became hazardous,

and -- on January 31, 2003 -- the Court entered a Rehabilitation Order, placing DIR into receivership.

7. Among other things, the DIR Rehabilitation Order directed the Commissioner (and her Special Deputy) "to conduct the business of [DIR] and take all steps as the Rehabilitator deems necessary or appropriate . . . to reform and revitalize" DIR. See Rehabilitation Order at 3, ¶ 1. The Rehabilitation Order also vested the Commissioner and Special Deputy with "title to all assets of DIR" and directed the Commissioner and Special Deputy "to take possession of the assets . . . of DIR and to administer them under the general supervision of the Court." Id. Finally, the Rehabilitation Order allowed the Commissioner and Special Deputy to petition the Court to convert the rehabilitation proceedings into liquidation proceedings if "further efforts to rehabilitate the insurer would substantially increase the risk of loss to creditors, policyholders, enrollees or the public, or would be futile" Id. at 8, ¶ 14.

8. Since January 31, 2003, the Receiver and I have attempted to rehabilitate DIR. Presently, the DIR receivership has over 1000 different claims and/or actions pending against DIR insureds in numerous States and which are in varying procedural stages. At this time, DIR has approximately \$7 million in assets, which are insufficient to fully satisfy all coverage obligations to its insureds, including settlements

relating to its insureds. Further, since January 31, 2003, a number of DIR insureds have purchased insurance elsewhere and cancelled their insurance policies with DIR.

9. Between January 31, 2003, and the present time, the DIR receivership has received inquiries from a small number of third parties, with respect to the possibility of purchasing DIR's book of business, or a portion thereof. However, there is no reasonable possibility of selling any of DIR's business at a price sufficient to meet its existing liabilities.

10. In addition, since the initiation of these receivership proceedings, the Commissioner and Special Deputy have endeavored to take possession of all of the accounts, assets, books, records and other property of DIR. Most of these books and records were located in Virginia, where the former management company, TRG, of DIR is located. As a consequence, the Commissioner, the Special Deputy, and counsel have made numerous requests to the Virginia Receiver of ROA/TRG for the production of all books and records of DIR, as well as access to TRG employees who functioned as managers of DIR.

11. At this time, the Commissioner and Special Deputy have been granted only limited access by the Virginia Receiver to DIR's books and records, and limited access to TRG employees who have knowledge relevant to the operations of DIR. While certain materials have been obtained from the Virginia Receiver, other

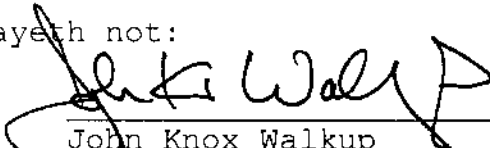
materials remain outstanding. This limited access to these materials and individuals has affected efforts at an orderly administration of DIR's assets and affairs, and limited the ability of the receivership to fully ascertain the financial condition of DIR.

12. Presently, DIR has no infrastructure with which to conduct an ongoing business. Again, prior to the initiation of receivership proceedings, virtually all of its operations were conducted by employees of TRG and/or ROA. In order to continue business operations, DIR would have to hire a sufficient work force to market DIR's insurance products, underwrite and administer existing and future claims made by insureds, and conduct the day-to-day business operations of the company. In addition, DIR would have to obtain sufficient office space and communication technology (including computers and telecommunication equipment) in order to function as an on-going entity. Investments in these human and technological resources require a tremendous expenditure of capital which DIR does not have.

13. On April 30, 2003, the ROA Receiver filed a petition with the Virginia State Corporation Commissioner, seeking the liquidation of ROA. Among other things, the petition recites that ROA is in a state of "deep insolvency."

14. Currently, DIR is insolvent. Further, because ROA is described by its receiver as being "deep[ly]" insolvent, and is being placed into liquidation, there is no possibility of rectifying DIR's condition of insolvency. Given its financial condition, and its current inability to function as an on-going business, further transaction of insurance business by DIR would be hazardous to DIR policyholders, creditors, and the public. In addition, I believe further attempts to rehabilitate DIR would be futile, and would substantially increase the risk of loss to policyholders, creditors and the public. I have informed Commissioner Flowers of this assessment of the financial and operative condition of DIR.

Further the affiant sayeth not:



John Knox Walkup
Special Deputy Receiver

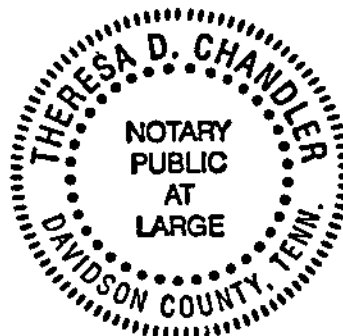
Sworn to and subscribed before me
this the 15th day of May, 2003.



Notary Public

My Commission Expires:

11/26/05



My Commission Expires NOV. 26, 2005

Summary of Estimated Impact of ROA Insolvency on ANLIR, DIR and TRA as of December 31, 2002

As reported in the September 30, 2002 quarterly statement of ANLIR, DIR and TRA and the December 31, 2002 annual statement of ROA

Column ("Col")	Total Net Admitted Assets, per Company	Receivable on Paid Losses and Paid LAE per ROA	Total Liabilities per Company	Known Case Losses and LAE Reserves per ROA	Unearned Premium per ROA	Total Policyholders' Surplus per Company
	1	2	3	4	5	6
ANLIR	\$15,452,335	\$4,126,000	\$9,769,681	\$27,018,000	\$10,491,000	\$5,682,652
DIR	\$33,024,890	\$12,938,000	\$17,992,808	\$56,231,000	\$17,094,000	\$15,032,082
TRA	\$29,541,586	\$7,500,000	\$10,511,335	\$34,100,000	\$2,928,000	\$19,030,252

	Adjusted Net Admitted Assets	Adjusted Liabilities	Adjusted Policyholders' Surplus *
	7	8	9
ANLIR	\$11,326,335	\$47,278,681	(\$35,952,346)
DIR	\$20,086,890	\$91,317,808	(\$71,230,918)
TRA	\$22,041,586	\$47,539,335	(\$25,497,749)

* The adjusted policyholders' surplus does not include a reduction for IBNR Loss and LAE Reserves. This amount was reported as of December 31, 2001 in companies annual statements as follows:

ANLIR \$15,641,000; DIR \$72,068,000; TRA \$22,872,000

Col 1 - Col 2 = Col 7
Col 3 + Col 4 + Col 5 = Col 8
Col 7 - Col 8 = Col 9



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Convert Rehabilitation to Liquidation and Verified Petition for Final Order of Liquidation and Permanent Injunction, with all attachments and exhibits, has been delivered by U.S. mail, first-class postage pre-paid to:

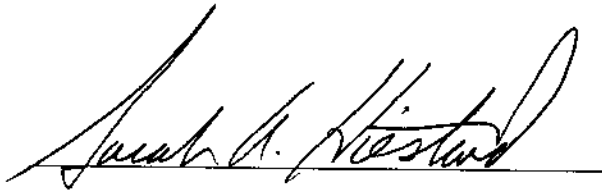
Doctors Insurance Reciprocal RRG
Board of Directors
c/o Timothy O. Wiechers
4200 Innslake Drive
Glen Allen, Virginia 23060-3307

and by overnight delivery to

Bill Crews, Esq.
Crews & Associates
5006-B Monument Avenue
Richmond, VA 23230

on this the 16th day of May, 2003, and after filing, will be posted on the Department of Commerce and Insurance website at:

<http://www.state.tn.us/commerce/insurance/reciprocols/index.htm>.

A handwritten signature in black ink, appearing to read "Sarah A. Heston", is written over a horizontal line.